THE HON'BLE MR JUSTICE B.PRAKASH RAO

and

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.1727 of 1999

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10th February 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08.09.1999 in W.P.No.8189 of 1995 on the file of the High Court.)

Between:

1. The Chief Security Commissioner/RPF/GRC, S.C.Railways, Waltair, Visakhapatnam.

And two others.

...APPELLANTS

AND

1. Pamu Venkata Rao, S/o.Late Manikyam, 56 years, D.No.8-38-20, Sriramnagar, Visakhapatnam.

And twoothers.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.1727 OF 1999

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri Gowri Sankar Sanghi, the learned Standing Counsel appearing on behalf of the appellants and Sri S.Satyam Reddy, the learned counsel appearing on behalf of the respondents.

Having heard the submissions made on either side and on perusal of the material available on record, the only point that is to be decided in this appeal is whether the respondents/writ petitioners are entitled to the interest on the retiremental benefits as awarded by the learned Single Judge.

There is no dispute to the fact that the respondents/writ petitioners were the employees as members of the Railway Protection Force (RPF) and subsequently

having charged for misconduct and neglect of duty, disciplinary proceedings were initiated and ultimately, after completion of the same, they were imposed penalty of compulsory retirement of service. The appeals filed against the said orders also stood rejected. Hence, the Writ Petition. Though, several contentions were raised in the Writ Petition, the learned Single Judge upheld the finding arrived at in the enquiry and the charge and also the punishment imposed and however, having regard to the specific application filed independently in W.P.M.P.No.6537 of 1998 for release of retiremental benefits, the same was ordered with interest at 18% per annum from 22.02.1995.

The learned Standing Counsel appearing for the appellants submitted that having regard to the facts and circumstances and especially where the very order of punishment was upheld, the question of awarding interest to the respondents is not sustainable.

The above submissions were repelled by the learned counsel appearing for the respondents.

Taking into consideration the submissions made on either side and on perusal of the material available on record, it is seen that there is no dispute to the fact that the respondents were charged with penalty of compulsory retirement after holding disciplinary enquiry and having found them guilty on the charge of misconduct and neglect of duty. At any point of time, there is no grievance with regard to the retiremental benefits. It is only at the pending of the Writ Petition, it was ordered that the retiremental benefits to be given with interest at 18% per annum. Since all these proceedings have been pending all along, the question of delay on the part of the

appellants does not arise. Further, the Rules also do not contemplate any such interest. It is now well settled that unless and until one is entitled to interest as per law or rules, the same cannot be avoided. In the circumstances, we hold that the respondents are not entitled to interest at 18% per annum.

The Writ Appeal is partly allowed and the order of the learned Single Judge in W.P.No.8189 of 1995 is set aside to the extent of payment of interest at 18% per annum. However, the appellants shall pay all the retiremental benefits to the respondents, if not already paid, on submission of necessary formats as required under law. No costs.

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(B.PRAKASH RAO, J)

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(D.APPA RAO, J)

10th February 2006

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